

## REMARKS

### Specification

The Examiner requested updating of the status of related applications. An amendment updating the status of related applications is submitted herewith.

### 35 U. S. C. § 103 Rejection

The Examiner rejected claims 1-5, 10, 11, 27, 28, 31, 34 and 35 under 35 U. S. C. § 103. The Examiner relied upon the combination of Marcus et al U. S. Patent 5,295,484 (hereinafter Marcus) and Lesh et al. U. S. Patent 6,024,740 (hereinafter Lesh) to support this rejection. However, neither Marcus nor Lesh discloses or suggests claim 1's specifically recited

“method of treating tissue comprising orienting an ultrasound transducer at a first longitudinal orientation and a first angular orientation adjacent the treatment region, exciting the transducer to ablate tissue adjacent the first longitudinal orientation and the first angular orientation within the treatment region, orienting the transducer at a second longitudinal orientation and the first angular orientation adjacent the treatment region, exciting the transducer to ablate tissue adjacent the second longitudinal orientation and the first angular orientation within the treatment region, orienting the transducer at the first longitudinal orientation and a second angular orientation adjacent the treatment region, and exciting the transducer to ablate tissue adjacent the first longitudinal orientation and the second angular orientation within the treatment region,”

or claim 2's specifically recited

“method of treating tissue comprising orienting an ultrasound transducer at a first longitudinal orientation and a first angular orientation adjacent the treatment region, exciting the transducer to ablate tissue adjacent the first longitudinal orientation and the first angular orientation within the treatment region, orienting the transducer at a second longitudinal orientation and a second angular orientation adjacent the treatment region, and exciting the transducer to ablate tissue adjacent the second longitudinal orientation and the second angular orientation within the treatment region.”

That which is neither disclosed nor suggested by either of the references cannot fairly be said to be disclosed by any combination of them. Applicants submit that since independent claims

1 and 2 distinguish patentably from the prior art of record, dependent claims 3-5, 10, 11, 27, 28, 31, 34 and 35, which depend directly or indirectly from one or the other of claims 1 and 2, patentably distinguish from the prior art of record as well. Accordingly, Applicants submit that the 35 U. S. C. §103 rejection of claims 1-5, 10, 11, 27, 28, 31, 34 and 35 is overcome. Favorable consideration, culminating in allowance of claims 1-5, 10, 11, 27, 28, 31, 34 and 35 is respectfully requested.

The Examiner rejected claims 6-9, 12, 13, 29, 30, 32, 33, 36 and 37 under 35 U. S. C. § 103. The Examiner relied upon the combination of Marcus, Lesh, and Ingle et al U.S. Patent 6,216,704 (hereinafter Ingle I) to support this rejection.

Claims 6-9, 12, 13, 29, 30, 32, 33, 36 and 37 depend directly or indirectly from one or the other of claims 1 and 2. The deficiencies of the Marcus/Lesh combination were discussed above and those discussions are incorporated here by reference.

The Examiner relies upon Ingle I to teach “that it is known to provide the ultrasound array with either a fixed focal length or a variable focal length to treat tissue to various depths.” Ingle I was filed on August 12, 1998 and is a continuation-in-part of and claims the benefit of the August 13, 1997 filing dates of, Ingle et al U.S. Patent 6,035,238 (hereinafter Ingle II) and Ingle et al U.S. Patent 6,081,749 (hereinafter Ingle III). Because neither Ingle II nor Ingle III discloses or suggests using an ultrasound transducer having a variable focal length, the Examiner can only rely upon the August 12, 1998 filing date of Ingle I. However, the present application is a divisional of U. S. S. N. 09/647,317, now U.S. Patent 6,685,640. U. S. S. N. 09/647,317 is the U.S. national phase of international application serial No. PCT/US99/06974 filed March 30, 1999, which claims priority to U.S. provisional application serial No. 60/079,945 filed March 30, 1998. Because the present application claims the benefit of a March 30, 1998 filing date, prior to Ingle I, Ingle I is not a reference.

There is no disclosure or suggestion in Marcus or Lesh of “provid[ing] the ultrasound array with either a fixed focal length or a variable focal length to treat tissue to various depths.”

Accordingly, Applicants submit that the 35 U. S. C. §103 rejection of claims 6-9, 12, 13, 29, 30, 32, 33, 36 and 37 is overcome. Favorable consideration, culminating in allowance of claims 6-9, 12, 13, 29, 30, 32, 33, 36, and 37 is also respectfully requested.

The Commissioner is hereby authorized to charge any fees which may be due to constitute this a timely response to the October 4, 2005 official action to Applicants’ undersigned counsel’s deposit account 10-0435 with reference to file number 6930-67263. A

duplicate copy of this authorization is enclosed for that purpose.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard D. Conard". The signature is fluid and cursive, with the first and last names being more prominent.

Richard D. Conard  
Registration No. 27321  
Attorney for Applicants

Indianapolis, Indiana  
(317) 231-7285

INDS02 RDC 779073